

**MINUTES
TOWNSHIP OF WEST ORANGE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
July 19, 2018**

The West Orange Zoning Board of Adjustment held a regular meeting on July 19, 2018 commencing 8:00 PM at 66 Main Street, West Orange, N.J. in Council Chambers.

Chairman Buechler called the meeting to order at approximately 8:00 P.M. It was announced that notification of this meeting was given to the Township Clerk, the West Orange Chronicle and the Star Ledger and posted on the Township Bulletin Board in accordance with the "Senator Byron M. Baer Open Public Meetings Act."

Chairman Buechler announced that a digital tape recording system is being utilized to record the proceedings of the meeting and instructed the general public on how the audio of the proceedings may be reviewed or obtained.

Chairman Buechler asked everyone to stand for the Pledge of Allegiance.

PRESENT: B. Buechler, D. Nash, P. Neuer, B. Quentzel,
I. Schwarzbaum, W. Steinhart, M. Sussman, A. Weiss

ABSENT: D. Gabry (excused absence)
F. Sanders (un-excused absence)
M. Straker (excused absence)

ALSO PRESENT: Paul Grygiel, Acting Planning Director for the Township
Eric Keller, Consulting Engineer for the Township
Alice Beirne, Esq., Board Attorney
Rose DeSena, Board Secretary

ANNOUNCEMENTS

Future Meetings: August 16, 2018 (regular meeting)
September 20, 2018 (regular meeting)
October 18, 2018 (regular meeting)

MINUTES June 21, 2018 (regular meeting)

Chairman Buechler stated that the draft minutes from the June 21, 2018 regular meeting were circulated to all of the Board Members.

Chairman Buechler said that Vice Chairman Neuer and Mr. Steinhart submitted comments for these minutes and asked if any Board Member had any additional comments; there were none.

Vice Chairman Neuer made a motion to approve the minutes of the June 21, 2018 regular meeting as amended; Mr. Steinhart seconded the motion and all were in favor.

It was noted for the record that Mr. Quentzel and Mr. Schwarzbaum were present but did not vote on these minutes because they were not in attendance at the June 21, 2018 meeting.

SWEARING IN

Paul Grygiel, acting Planning Director for the Township and Eric Keller, Consulting Engineer for the Township, were sworn under oath.

RESOLUTION

- 1. ZB-18-01/Deutsche Bank Trust Co. c/o the Durkin Firm Approved 6/21/18**
Block: 154; Lot: 131; Zone: R-5
112 Conforti Avenue
Seeking two (2) “c” variances for front and side yard setbacks to install two (2)
wheelchair access ramps.

Chairman Buechler stated that this resolution was circulated to all of the Board Members that included comments from Vice Chairman Neuer.

Ms. Beirne stated that on page 6 it should state Members of the Board and not Members of the Court.

Chairman Buechler asked if any Board Member had any other comments; there were none.

Vice Chairman Neuer made a motion to adopt the resolution as submitted and Mr. Steinhart seconded the motion.

The vote was as follows:

Gabry:	-	Schwarzbaum:	-
D. Nash:	Yes	Steinhart:	Yes
Vice Chairman Neuer	Yes	Straker:	-
Quentzel:	-	Sussman:	Yes
Sanders:	-	Weiss:	Yes
		Chairman Buechler:	-

APPLICATIONS

1. ZB-18-05/Facey

Block: 85.03; Lot: 8 & 10; Zone: R-5

233 Mt. Pleasant Avenue

Applicant is requesting an amendment to the resolution of approval to amend a condition related to exterior lighting at the rear of the house.

EXHIBITS

A-1 – Photos

Board-1 – Photos of the light fixtures taken by Vice Chairman Neuer

O-1 – Photo of an outdoor light fixture taken from a website

O-2 – Photo of existing light fixture on the back of the applicant's house

Richard A. Brovarone, attorney for the applicant, approached the podium.

Chairman Buechler stated it is his understanding that the applicant is requesting a waiver of condition #1 in a prior resolution;

Mr. Brovarone said that his client is looking for either a waiver or a determination from the Board that his client has satisfied that condition.

Chairman Buechler stated that Vice Chairman Neuer, Mr. Sussman and himself went to the site to observe the light fixtures at night time.

Chairman Buechler asked Mr. Brovarone to summarize his position.

Mr. Brovarone stated that he has photos of the light fixtures taken by Mr. Facey and a copy of the exact light fixture that he printed off of the Home Depot web site that the applicant installed.

Mr. Brovarone states that the specifications of the light fixture states that it points downward and that you cannot see the light bulb unless you are looking up at it.

Chairman Buechler asked Mr. Bravarone if the photos taken by Mr. Facey are the same photos that were included with the application; he said he was not sure because he did not submit the application.

Mr. Brovarone stated that today he received a hard copy of a letter from Jeffrey Kantowitz that was addressed to Ms. Beirne dated July 13, 2018 but did not receive a copy of it before today.

Mr. Kantowitz asked Chairman Buechler if he could speak.

Chairman Buechler asked Mr. Kantowitz to take his seat.

Mr. Kantowitz wanted the record to reflect that he wanted to raise a procedural issue and was

asked to sit down.

Chairman Buecher stated that the record will reflect that he asked Mr. Kantowitz to take his seat because the proceedings had already begun and the Board follows a certain order.

Mr. Brovarone referred to the photos that Mr. Facey took and said that the lights have met the criteria and that the condition in the resolution has been satisfied.

Mr. Kantowitz, attorney for the objector, approached. He stated that he represents a neighboring property at 19 Jones Place.

Mr. Kantowitz stated that the applicant did not satisfy the condition in the resolution and that the Township's Zoning Official also cited the applicant because the condition was not satisfied.

Chairman Buechler stated that this is not a procedural issue and said he will address the case law that Mr. Kantowitz presented to the Board in a memo addressed to Ms. Beirne dated July 16, 2018.

Chairman Buechler said that he read the case laws that were cited by Mr. Kantowitz and said that the Board considered them and determined that they are not applicable.

Chairman Buechler stated that the Board will make the determination if the condition was satisfied.

Mr. Kantowitz stated that he wanted the record to reflect his objection to that.

Chairman Buechler advised Mr. Kantowitz that he is welcome to appeal the Board's decision.

Chairman Buechler stated that a few Members of the Board went to the property and looked at the lights. He said that the condition requires that the light fixture have permanent shields that cover the lighting elements and that they should point downward and not shine towards the house on Jones Place.

Chairman Buechler stated that the applicant did replace the light fixtures and that they are pointing downward but the metal casing does not appear to go below the level of the light bulb.

Chairman Buechler suggested that the Board is not going to waive the condition because the applicant did not fully comply because the shield does not cover the light bulb. He said that the applicant must install light fixtures where the metal shield extends below the bulb so that it is a true shield.

Vice Chairman Neuer stated for the record that he was at the property at 9:45pm and took photos that were marked as Exhibit Board-1 for identification. He said that he was standing in Ms. Stiles backyard and could see the light bulbs and that there is a great deal of light shining on the house.

Vice Chairman Neuer stated that it is his opinion that the light fixtures do not meet the requirements of the condition.

Mr. Sussman stated for the record that he was there as well and that he disagrees with Chairman Buechler and Vice Chairman Neuer. He said that they were standing below the light and that even with another shield they will still be able to see the light bulb.

Mr. Sussman stated that it is his opinion that the applicant has met the condition.

Ms. Weiss stated that there was not enough time given to the Board to visit the site and she did not visit the property. She said that the applicant should do what is best for their neighbor.

Mr. Steinhart stated that he disagrees with this requirement because the Board does not even know if there is a hood that meets the requirement.

Chairman Buechler stated that the hood must cover the lighting element and it does not. He said that the applicant must buy another fixture or buy a smaller light bulb.

Mr. Brovarone referred to the photo of the light fixture that the applicant installed, that was printed from the Home Depot website, and said that the hood does cover the light bulb and that the applicant purchased the recommended light bulb for that fixture.

Mr. Brovarone asked for the photos of the light fixtures to be marked for identification; Ms. Beirne marked the twelve (12) pages of photos of the light fixtures as A-1 for identification.

Ms. Beirne also marked the photos of the light fixtures that Vice Chairman Neuer took as Board-1 for identification.

Mr. Kantowitz placed an objection on record; his objection was that the applicant's attorney cannot testify that the applicant complied. Mr. Kantowitz maintained that the applicant did not comply and that the light bulb protrudes below the shield.

Mr. Brovarone stated for the record that his client will not change the light bulb; he said that they used the light bulb that the manufacturer recommended.

Vice Chairman Neuer asked Mr. Brovarone if anyone asked the manufacturer if the light bulb complied with the condition; he said no.

Mr. Brovarone called the applicant to testify.

Devon Facey approached the podium and was sworn under oath. He stated that he initially had the light fixtures replaced by an electrician and that the Township's Zoning Official said that they were not in compliance because the hood was too short. Mr. Facey said that he had the electrician come back again and install the new light fixtures with a different hood.

Mr. Kantowitz stated for the record that he would like a new term used for the light fixtures

cover; Chairman Buechler stated that they will call it a hood.

Mr. Facey stated that if you look at the light fixture you cannot see the light bulb; he said that they used the light bulb that was recommended by the manufacturer for the light fixture.

Mr. Brovarone presented the photos that Mr. Facey took that were marked as Exhibit A-1; Chairman Buechler asked Mr. Facey if the photos accurately depict what is currently there and he replied yes.

Mr. Brovarone referred to Exhibit A-1 and asked Mr. Facey to describe each photo; Mr. Facey complied.

Mr. Kantowitz approached the podium and asked Mr. Facey what his educational background was and his profession.

Mr. Brovarone objected to the questions Mr. Kantowitz was asking Mr. Facey.

Chairman Buechler advised Mr. Kantowitz that asking questions about Mr. Facey's education or profession are not relevant.

Mr. Kantowitz asked Mr. Facey if his client offered to purchase light fixtures that extend below the light bulb for him.

Mr. Facey said that the offer came to him through the court and was not personally offered to them. He said that he refused the offer because he thought that the light fixtures they installed were in compliance.

Mr. Kantowitz presented a photo of light fixture taken from a website that was marked as Exhibit O-1 for identification. He said that this is the light fixture that his client offered to pay for.

Mr. Brovarone said that his clients does not want Mr. Kantowitz's client paying for anything because they are in litigation with her. He said that lighting is for safety and the light fixture in Exhibit O-1 does not light up the stairs.

Mr. Kantowitz presented a photo of the existing light fixture on the applicant's back porch that was marked as Exhibit O-2 for identification.

Mr. Schwarzbaum stated that neighbors do not have the right to tell someone what type of light fixture to use on their property. He said he feels this is not about too much light; it is about neighbors not liking one another. Mr. Schwarzbaum said that someone should go to the site and look at the light fixtures and measure the light bulbs to see if they protrude.

Ms. Nash referred to the photo in Exhibit A-1 and Exhibit O-1. She said that both the applicant and the objector presented photos that do not show a light bulb.

Mr. Kantowitz referred to Mr. Schwarzbaum's comments regarding the neighbors not liking one

another and said that he disagrees with that statement and it should not be said on the record. He said that he does agree with Mr. Schwarzbaum and thinks that all someone has to do is go to the site and measure the light bulbs to see if they protrude.

Chairman Buechler stated that the Board is going to adjourn this until the next meeting and have Mr. Schwarzbaum and Mr. Sussman go to the site and measure the light bulbs. He said that if the light bulbs protrude the applicant will have to install smaller light bulbs.

There was some discussion between Mr. Kantowitz and the Board Members regarding exactly what the condition is.

Chairman Buechler stated that the Board will vote on whether Mr. Schwarzbaum should visit the site to measure the light bulb to see if it protrudes and determine if the condition is met and asked for a motion.

Vice Chairman Neuer made a motion to deny the application without prejudice subject to Mr. Schwarzbaum visiting the site to see if the bulbs projects below the hoods. He said if the bulbs do not protrude then the Board will determine if the condition was satisfied; if not, then the condition was not satisfied.

Ms. Weiss seconded the motion.

Mr. Kantowitz approached and requested to speak; Chairman Buechler denied his request and said that the Board is in the middle of a motion.

Ms. Beirne stated that the Board should table the motion and hear Mr. Kantowitz.

Chairman Buechler said that the Board heard enough testimony and that enough time and money has been wasted on this issue.

Ms. Beirne reiterated her statement and said that the Board should table the motion and hear Mr. Kantowitz.

Mr. Kantowitz stated that the condition should not be removed as requested by the applicant.

Chairman Buechler stated that the Board is not voting to remove the condition; the Board is going to determine if the applicant has met the condition.

Vice Chairman Neuer stated that the Board denied the application subject to whether the applicant has met the condition.

Mr. Brovarone said that he stated at the beginning of this meeting that the applicant does not want to remove the condition; they just want the Board to determine if the condition was met.

Chairman Buechler called for a vote.

The vote was as follows:

Gabry:	-	Schwarzbaum:	Yes
D. Nash:	-	Steinhart:	Yes
Vice Chairman Neuer	Yes	Straker:	-
Quentzel:	Yes	Sussman:	Yes
Sanders:	-	Weiss:	Yes
		Chairman Buechler:	Yes

Chairman Buechler stated that the applicant will return to the next meeting on 8/16/18 and Mr. Schwarzbaum and Mr. Sussman will convey to the Board what their findings were.

Chairman Buechler called for a recess at 9:35 pm.

Chairman Buechler resumed the meeting at 9:43 pm.

2. ZB-18-03/Warner

Carried from 6/21/18

Block: 161.04; Lot: 31; Zone: R-4

9 Knollwood Drive

Seeking a "c" variance for rear yard setback for a sunroom

Patrice Warner, applicant, approached the podium and was sworn under oath.

Chairman Buechler asked Ms. Beirne if the applicant's public notice included the request to remove a condition from a prior resolution regarding the removal of a handicap ramp; it was determined that the public notice did not include the waiver to have the condition removed.

Chairman Buechler said page two (2) of the application was only for the addition of a sunroom and it did not mention the waiver of the condition.

Ms. Warner stated that she included the request to have the condition waived in her proposal letter.

Chairman Buechler stated that the Board can hear the request for the addition of a sunroom at this meeting but not the waiver of the condition.

Chairman Buechler advised the applicant that she would either have to submit a new application requesting the waiver of the condition in a prior resolution to remove the handicap ramp which would be heard at another meeting or send a new notice to all of the properties within 200' of her property that include the waiver of the condition in the resolution to remove the handicap ramp.

Ms. Warner stated that her 92 year old mother lives with her that utilizes the ramp and she does not want to have to remove it.

Chairman Buechler stated that the resolution stipulates that the ramp must be removed if no one occupying the house has a need to utilize it.

Chairman Buechler asked Ms. Warner if her mother has an issue with mobility and utilizes the ramp; she replied yes.

Chairman Buechler stated that the applicant does not have to remove the ramp. He said that if the situation changes the applicant can come back at a later date to request having the condition to remove the ramp waived.

Ms. Warner testified as to why she would like to add a sunroom to the rear of her home; she said specifically because her 92 year old mother would like to sit in the sunroom rather than go outside.

Mr. Schwarzbaum asked Mr. Warner if she is proposing to replace the existing deck with a sunroom; she replied no.

Chairman Buechler stated that the proposal is to keep the existing deck and build a second deck for the sunroom that will have no egress or ingress directly to the back yard.

Chairman Buechler asked Ms. Warner if her neighbors had anything negative or positive to say about her proposal; she said only positive things.

There were no questions for Ms. Warner from any Board Members, Board Professionals or members of the public.

Chairman Buechler asked for a motion.

Vice Chairman Neuer made a motion to approve the application and Mr. Sussman seconded the motion.

The vote was as follows:

Gabry:	-	Schwarzbaum:	Yes
D. Nash:	-	Steinhart:	Yes
Vice Chairman Neuer	Yes	Straker:	-
Quentzel:	Yes	Sussman:	Yes
Sanders:	-	Weiss:	Yes
		Chairman Buechler:	Yes

- 3. ZB-18-04/350 Pleasant Valley Realty, LLC** **Carried from 6/21/18**
Block: 152.22; Lot: 1428; Zone: R-5
350 Pleasant Valley Way
Seeking a 'd' and 'c' variances for amended site plan approval to construct
Solar panels and solar canopies on site.

EXHIBITS

A-1 – Colorized Site Plan – Sheet SP2 dated 5/18/17

A-2 – Color Photo Board labeled “Perspective Views” taken by Solar Visuals

A-3 - Proposed Canopy & Lighting Layout Plan prepared by RAB Lighting dated 5/16/18

Robert Williams, attorney for the applicant, approached the podium.

Mr. Williams detailed the application stating that the applicant is proposing to install solar panels at the Wilshire Grand Hotel along with solar canopies for the solar panels.

Mr. Williams stated that the hotel is a conditional use in an R-5 zone but does not meet the conditions and is seeking a 'd' variance. He said that they are also seeking a 'c' variance for the height of the solar canopies.

Mr. Williams detailed the location of the canopies and stated that the application originally proposed three solar canopies but the applicant is withdrawing one of the canopies that was to be located in the front parking lot of the hotel. He said that they will just add additional panels to the other two canopies.

Chairman Buechler instructed Mr. Williams to have his professionals submit revised drawings.

Mr. Williams called his first witness.

J. Michael Petry approached the podium and was sworn under oath.

Mr. Petry detailed his professional background as a professional engineer licensed in the State of New Jersey and stated that all of his licenses are in good standing.

Chairman Buechler accepted Mr. Petry as an expert in Engineering.

Mr. Petry presented a colorized version of sheet SP-2 of the overall site plan dated 5/18/17 that was marked as Exhibit A-1 for identification.

Mr. Petry referred to Exhibit A-1 and detailed the location of the canopies in the parking areas of the site.

Chairman Buechler asked Mr. Petry how many parking spaces will become smaller; he said ten (10) will be reduced in size and will be made into compact car parking spaces. Mr. Petry stated that there are three hundred and seventy eight (378) existing parking spaces.

Mr. Petry stated that they will be removing seven (7) trees and that they filed a tree removal application and showed the Township Forester where they will be planting the replacement trees.

Ms. Weiss asked Mr. Petry if the solar panels are going to be blue; he said yes.

Mr. Petry detailed how the solar power is transferred to the building; he said that the storage of the power is located inside of the building.

Mr. Petry stated that he will address all of the comments in Mr. Keller's technical review dated 7/2/18.

1. Revised plans will be submitted that show where the construction staging will take place.
2. Mr. Petry stated that the footings for the canopy system will remain three foot in diameter.
3. Applicant will comply with Township Foresters recommendations in his memo dated 6/13/18.
4. Presented photos that were marked as Exhibit A-2 for identification showing the visual impacts to the residences on Kenz and Ronald Terraces.
5. Parking stalls that will be affected with the installation of the canopies will become compact car parking spaces.
6. Panels are spaced apart to allow the snow and rain to runoff between them; this allows them to drain naturally without gutters.
7. Will submit darker revised plans, prepared by kpff, showing the background information.
8. Provided testimony regarding how the panels will be maintained. Mr. Petry stated that there is sufficient rain that cleans them.
9. Agreed to a condition that they will stay below what is required for their annual power consumption.
10. Presented the Proposed Canopy & Lighting Layout Plan prepared by RAB Lighting dated 5/16/18 that was marked as Exhibit A-3 for identification and detailed how the panels will impact the existing parking lot light fixtures.
11. The compact parking stalls will be noted and properly signed.

12. Will comply if there is an increase in the tilt angle of the solar panel.

Mr. Keller asked Mr. Petry if they will agree to replace the storm pipe if it is damaged during the drilling of the footings; he replied yes. Mr. Petry said that they can move the canopy a little if need be.

Mr. Keller asked Mr. Williams if the applicant would rather ask for a forty (40) foot setback instead of a forty nine (49) foot setback; he said yes and asked to amend the application.

Mr. Keller referred to the canopy shown in Exhibit A-2 and asked Mr. Petry if he was correct in saying that there are no drainage structures there; he replied yes.

Mr. Keller asked Mr. Petry if the lights in the parking area are on the same schedule as they are today; he replied yes.

Mr. Keller instructed Mr. Petry to revise the lighting analysis and re-submit it. He also said to make sure that all the revised plans have raised seals on them.

There were no further questions for Mr. Petry.

Mr. Petry began his testimony as the applicant's professional planner.

Mr. Petry stated that he submitted a report dated 5/31/18 and stated that the applicant is proposing to install solar panels on the roof of two solar canopies within existing parking areas.

Mr. Petry stated that solar power reduces the carbon footprint and is a beneficial use.

Mr. Petry detailed the positive and negative criteria and stated that both have been met and that there is no detriment to the public good or the zoning ordinance.

Mr. Schwarzbaum asked Mr. Petry if the canopies will look like a car port; he replied yes.

Mr. Petry stated that the canopies will be painted to match the existing building.

There were no further questions for Mr. Petry.

Mr. Williams stated that he has completed his application.

Mr. Schwarzbaum stated that he would like to know more about the solar power.

Mr. Williams said that the representative from the company who will be installing the solar panels can answer any questions that the Board has.

Jeffrey Chavkin approached the podium and was sworn under oath. Mr. Chavkin stated that he is the president of Geoscape Solar located in Florham Park, New Jersey.

Mr. Schwarzbaum asked Mr. Chavkin how the system operates.

Mr. Chavkin said that the solar panels take light from the sun and it is converted into DC energy. He said that the inverters then convert that into AC energy which is fed to the hotel underground. Mr. Chavkin said that if they are creating more energy than is needed then the meter runs backwards and it is put back into the grid.

Ms. Weiss asked Mr. Chavkin if there is a backup generator at the hotel; he said he did not know for sure.

Ms. Weiss asked Mr. Chavkin if the hotel would still need a backup generator with the solar power; he said yes. Mr. Chavkin said if the grid goes out everything goes out.

Mr. Schwarzbaum asked Mr. Chavkin if the solar panels tilt towards the sun; he said no. Mr. Chavkin said the solar panels are fixed.

There were no further questions for Mr. Chavkin.

There were no further witnesses.

There were no comments from any of the members of the public.

Mr. Williams summed up and asked that the Board approve this application.

Chairman Buechler closed the public record and asked for a motion.

Vice Chairman Neuer stated that this is a great application and made a motion to approve with the amendments as put on record by council.

Chairman Buechler seconded the motion to approve with the following conditions:

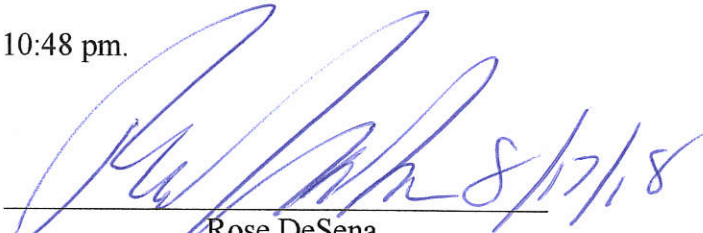
- Ms. Beirne will go through Mr. Keller's memo dated 7/2/18 and incorporate those items as conditions;
- All revisions must be submitted at least ten (10) day prior to the next meeting;
- The applicant must comply with the Township Forester's memo dated 6/13/18;
- The footings will not affect the underground drains.

The vote was as follows:

Gabry:	-	Schwarzbaum:	Yes
D. Nash:	-	Steinhart:	Yes
Vice Chairman Neuer	Yes	Straker:	-
Quentzel:	Yes	Sussman:	Yes
Sanders:	-	Weiss:	Yes
		Chairman Buechler:	Yes

The meeting was adjourned by Chairman Bucher at 10:48 pm.

Adopted: August 16, 2018


Rose DeSena
Zoning Board Secretary